

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3801

IN THE MATTER OF:

Served August 6, 1991

Application of RDM ENTERPRISES, INC.,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-91-18

Application for Approval of Common)
Control Relationship -- RDM)
ENTERPRISES, INC., and MURRAY'S)
TRANSPORTATION SERVICE, INC.)

Case No. AP-91-19

By application filed June 11, 1991, in Case No. AP-91-18, RDM Enterprises, Inc. (RDM), a District of Columbia corporation, seeks a Certificate of Authority to transport passengers, together with mail, express, and baggage in the same vehicles with passengers, in irregular route operations between points in the Metropolitan District, restricted to vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

The stock of RDM is owned by Ms. Rosetta D. Murray, RDM's president. Ms. Murray also owns a controlling interest in Murray's Transportation Service, Inc. (Murray's), the holder of Certificate of Authority No. 63 which authorizes the transportation of passengers in irregular route operations between points in the Metropolitan District, unrestricted as to vehicle seating capacity. In Case No. AP-91-19, RDM and Murray's seek approval of this common control relationship.

By Order No. 3779, served June 20, 1991, notice of this application was given, and RDM and Murray's were jointly directed to publish notice in a newspaper and post notice in Murray's vehicles. Affidavits of posting and publication were filed as required. No protests or comments were filed, and no person requested an oral hearing in this case. The matter is ready for decision.

SUMMARY OF EVIDENCE

RDM provided an equipment list showing 18 vehicles to be used in the proposed service. RDM also provided copies of 18 District of Columbia registration certificates showing that the vehicles are owned by Murray's. Further, these vehicles are currently operated by Murray's pursuant to its Certificate of Authority No. 63. RDM would lease these vehicles from Murray's. It is the apparent intent of management that RDM will operate only vehicles seating 15 or fewer persons, including the driver; and Murray's will operate vehicles seating 16 or more persons, including the driver. It is noted that the Commission's insurance regulations require minimum liability coverage of \$1.5 million for carriers exclusively operating the smaller class of vehicles and \$5 million for carriers operating any vehicle in the larger capacity.

The application states that RDM will employ a dispatcher, office manager, secretary, and staff to perform preventive maintenance and minor repairs. RDM has garage facilities for its vehicles. Drivers will complete vehicle inspection reports before and after taking out a vehicle. Drivers must be at least 25 years old, be appropriately licensed, pass physical and drug examinations, and pass written and road tests for safety. Additional driver training consists of Red Cross first-aid and CPR, and training in passenger assistance techniques.

RDM has not been assigned a safety rating by the United States Department of Transportation (USDOT). However, RDM's president certifies on RDM's behalf that it has access to and is familiar with applicable USDOT regulations and will comply with them. The same certification is made with regard to the Compact and this Commission's rules and regulations. It is noted that RDM's president, Ms. Murray, is also president of Murray's, a WMATC carrier currently in good standing which has a satisfactory USDOT safety rating.

With its application RDM filed a balance sheet as of May 31, 1991, showing current assets of \$10,000 and fixed assets of \$29,927, including leasehold improvements, furniture, and office equipment, for total assets of \$39,927. Liabilities and net worth of \$39,927 include capital contributions of \$4,027; corporate loans of \$25,000; and stockholder equity of \$10,900. RDM's projected operating statement for the first 12 months of proposed operations estimates operating revenue of \$644,687 and operating expenses of \$555,894, resulting in net income of \$89,913.

RDM's proposed tariff shows the following rates:

	<u>MEDICAID</u>	<u>NON-MEDICAID</u>
ONE WAY		
Inside capital beltway	\$25	\$25
To points outside capital beltway	75¢ each loaded mile	\$1 each loaded mile
ROUND TRIP		
Inside capital beltway	\$35	\$45
CANCELLATION		\$7.50
EXTRA MANPOWER (When required)		\$5 each way
WAITING TIME (Requested by client)		\$5 each 15 minutes

It is noted that the proposed tariff is not clear whether the mileage charges apply (1) in addition to the \$25, (2) in lieu of the \$25, or (3) only beyond the Capital Beltway. It is not clear whether round-trip rates beyond the Capital Beltway have been omitted on purpose.

The application contains three notarized statements of support. C. Davenport, director of Tots School International of Washington, DC, states that its students go on at least one field trip a week to various places throughout the metropolitan area. Because its classes are small, a 15-passenger van would be ideal. G. Pacheco of the

Bureau of Community Services, Washington, DC, states that BCS's clients, numbering about 300 daily, live throughout the metropolitan area and need transportation to attend day care programs, medical appointments, and court appointments. BCS's clients are both ambulatory and non-ambulatory. A.M. Campbell of the United States Department of Veterans Affairs states that its patients come to the Veterans Medical Center from throughout the metropolitan area. About 15 to 20 non-ambulatory passengers a day need transportation and require specialized vehicles.

DISCUSSION AND CONCLUSIONS

Case No. AP-91-18 is governed by the Compact, Title II, Article XI, Section 7(a) which provides in pertinent part that:

. . . the Commission shall issue a certificate to any qualified applicant, . . . if it finds that-

- (i) the applicant is fit, willing, and able to perform the transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and
- (ii) that the transportation is consistent with the public interest.

Case No. AP-91-19 is controlled by the Compact, Title II, Article XII, Section 3, under which the standard for approval of common control is consistency with the public interest.

Murray's already holds the authority to conduct, and is conducting, the operations for which RDM here seeks authority. Murray's is now using the vehicles which RDM proposes to lease from Murray's in order to conduct the proposed operations. Although the application does not so state, it is reasonable to conclude from the evidence that the sole purpose of these applications is to separate the operation of vehicles seating 15 or fewer persons from the operation of vehicles seating 16 or more persons, and thus reap the financial benefit of lower insurance premiums on the smaller vehicles. Persons in control of RDM and Murray's have apparently concluded that, with 18 vehicles currently in the smaller category, the potential benefit is worthwhile. In considering whether the granting of the application and approval of common control are consistent with the public interest, the Commission has also considered that the proposed separation will reduce the insurance-related operating costs associated with the smaller vehicles and should, in turn, help keep the tariff rates down and possibly improve the competitive posture of RDM in the operation of those vehicles.

RDM and Murray's are two separate legal entities under common control. Each WMATC carrier is expected to meet all of the Commission's requirements and to be accountable to the Commission for all regulatory purposes relating to the Compact and the Commission's rules and regulations. Each carrier shall keep separate books of account relating to its own finances and operations, and each shall maintain its records in such a way as to be individually accountable to the Commission. The Commission concludes that these applications are consistent with the public interest.

The Commission further concludes that RDM is fit, willing, and able to perform the proposed operations. Applicant's balance sheet shows it is not well capitalized at this time. However, given the obvious intent of this application, persons controlling RDM and Murray's clearly intend to make available to RDM a fleet of 18 vehicles and are prepared to underwrite the insurance premiums and start-up costs. Management of the two companies currently controls office and parking facilities in the District of Columbia at 2001-16th Street, N.E., and at 3031-8th Street, N.E., that are adequate for both operations. The companies' personnel are experienced in conducting the same operations using the same vehicles.

It is noted that Murray's has a number of Contract Tariffs on file, some or all of which may call for the operation of vehicles which, as a result of this action, will be put under the exclusive control of RDM. As a necessary part of this action the Commission will call for appropriate tariff filings by both companies. Accordingly, RDM and Murray's need to consider their individual abilities to perform these various contracts, some or all of which may require modification and/or novation.

THEREFORE, IT IS ORDERED:

1. That RDM Enterprises, Inc., is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

2. That approval of common control is hereby granted to RDM Enterprises, Inc., and Murray's Transportation Service, Inc., conditioned upon continuous compliance with the separation precepts discussed in the text of this order.

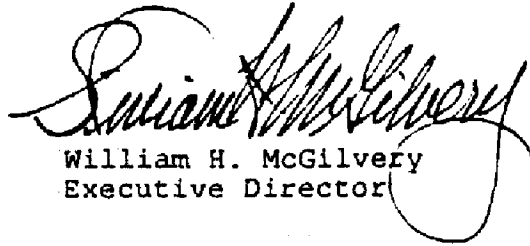
3. That RDM Enterprises, Inc., is hereby directed, within 30 days of the date of this order or such additional time as the Commission may direct or allow, to file: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) five copies of its tariff(s) (corrected as discussed in the text of this order) in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction), seating capacity, and modifications for the safe loading, unloading, and transportation of persons in wheelchairs; (d) evidence of ownership, or a lease as required by Commission Regulation No. 62, for each vehicle to be used in revenue operations in the Metropolitan District; (e) its official business address as discussed in Commission Regulation No. 68; and (f) an affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 187 is hereby assigned.

4. That Murray's Transportation Service, Inc., is hereby directed, within 30 days of the date of this order or such additional time as the Commission may direct or allow, to file: (a) a revised equipment list containing the information required in paragraph 3(c) above; (b) five copies of any tariff(s) in accordance with Commission

Regulation No. 55 that may need to be revised because of the actions taken herein; and (c) its official business address as discussed in Commission Regulation No. 68.

5. That upon timely compliance with the requirements of the preceding paragraphs and acceptance of the materials required by the Commission, Certificate of Authority No. 187 shall be issued to RDM Enterprises, Inc., as appended to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS SCHIFTER AND SHANNON:



William H. McGilvery
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

CERTIFICATE OF AUTHORITY

NO. 187

RDM Enterprises, Inc.

By Order No. 3801 of the Washington Metropolitan Area Transit Commission issued August 6, 1991;

WHEREAS, the above-named carrier is entitled to receive authority to transport passengers within the Washington Metropolitan Area Transit District;

THIS CERTIFICATE OF AUTHORITY is hereby issued to the named carrier as evidence of the authority to engage in the for-hire transportation of passengers by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the named carrier:

IRREGULAR ROUTES, transporting passengers, together with mail, express, and baggage in the same vehicles as passengers, between points in the Washington Metropolitan Area Transit District;

RESTRICTED TO (1) operations conducted according to the named carrier's applicable tariff on file with the Commission and (2) transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver; and

RESTRICTED AGAINST (1) transportation solely within the Commonwealth of Virginia and (2) any passenger transportation for hire on an individual fare paying basis in competition with any existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the Federal Government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority.

THIS CERTIFICATE OF AUTHORITY DOES NOT AUTHORIZE ANY TRANSPORTATION BY ANY PERSON OTHER THAN THE CARRIER NAMED HEREON.

THIS CERTIFICATE OF AUTHORITY IS NOT VALID UNLESS THE CARRIER NAMED HEREON IS IN COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THE COMMISSION.

IT IS A FURTHER CONDITION of this certificate of authority that the carrier named hereon shall (a) provide safe and adequate transportation service, equipment, and facilities and (b) observe and enforce Commission regulations.